

EXHIBIT 2

CERTIFIED TRANSLATION:

**COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
SAN JUAN JUDICIAL CENTER
SUPERIOR PART**

EMPLOYEES RETIREMENT SYSTEM OF
THE GOVERNMENT AND JUDICIARY
OF THE COMMONWEALTH
OF PUERTO RICO ("SYSTEM");
ESTATE OF PEDRO JOSÉ
NAZARIO SERRANO, ESTATE OF JUANITA SOSA
PÉREZ; JOEL RIVERA MORALES; MARÍA DE
LOURDES GÓMEZ PÉREZ; HÉCTOR CRUZ
VILLANUEVA; LOURDES RODRÍGUEZ;
LUIS M. JORDÁN RIVERA, INDIVIDUALLY AND AS
REPRESENTATIVE OF PLAINTIFFS CLASS
COMPRISED OF THE SYSTEM BENEFICIARIES;

Plaintiffs

v.

UBS FINANCIAL SERVICES INCORPORATED; UBS
TRUST COMPANY OF PUERTO RICO ("UBS TRUST"),
AND UBS CONSULTING SERVICES OF PUERTO
RICO; ABC INSURANCE COMPANY,
INC.; XYZ INSURANCE COMPANY, INC.

Defendants

CIVIL NO.: KAC 2011-1067 (803)

RE: BREACH OF CONTRACT,
DAMAGES

FILED AT THE CLERK'S OFFICE THIS
September 23, 2022 at 2:23 pm
Clerk

REQUEST FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT

TO THE HONORABLE COURT:

COME NOW Plaintiff the Employees Retirement System of the Government and Judiciary of the Commonwealth of Puerto Rico (the "System"), together with members of the Estate of Pedro José Nazario Serrano and members of the Estate of his spouse Juanita Sosa Pérez; Joel Rivera Morales; María de Lourdes Gómez Pérez; Héctor Cruz Villanueva; Lourdes Rodríguez; and Luis M. Jordán Rivera (jointly, the "Individual Plaintiffs"), individually and as representatives of the members of the class comprised by the other System's beneficiaries/retirees, represented by the undersigned counsel, and very respectfully **STATE, ALLEGE AND PRAY:**

1. On July 14, 2021, UBS Financial Services Incorporated of Puerto Rico merged

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S/ GLADYS RODRÍGUEZ-FORNARIS

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with UBS Financial Services Incorporated, with UBS Financial Services Incorporated remaining the sole surviving corporation. Given this, it is necessary to substitute defendant UBS Financial Services Incorporated of Puerto Rico with UBS Financial Services Incorporated. In addition, the Answer to the Fourth Amended Complaint shows that the defendant UBS Consulting of Puerto Rico is a subdivision of UBS Trust Company of Puerto Rico ("UBS Trust"), therefore, it is also necessary to amend the complaint to add UBS Trust as a co-defendant. For such purposes and to reflect the foregoing, leave to amend the complaint is hereby requested.

2. Recently, both Pedro Jose Nazario Serrano and his wife, Juanita Sosa Perez, passed away. In view of the foregoing, it is necessary to amend the complaint to substitute them for the members of their respective estates, whose identities will arise from the Declarations of Heirship in process, which will be submitted to this Honorable Court as soon as they are completed.

3. This case arose as (i) a derivative action for the benefit of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico Retirement Systems (the "System"), which is a trust created by law for the benefit of its trustees, who are the employees/retirees of the Government and Judiciary of Puerto Rico, and (ii) a personal action by the Individual Plaintiffs, who are individuals and beneficiaries/retirees of the System or successors of the System, to recover continuing damages caused to the System and its trustees by defendants UBS Financial Services, Inc. and UBS Trust. As of the Third Amended Complaint, the System, individually, appeared as a plaintiff, whereby, with respect to the System, the instant litigation ceased to be a derivative action and became a direct action by the System for its own benefit and, therefore, of its trustees, who are the System's beneficiaries/retirees and members of the proposed class.

4. Subsequently, as part of the procedures of the Adjustment Plan for the Payment of the Debt of the Government of Puerto Rico, and in accordance with the PROMESA Act, the System is undergoing or will undergo a process of liquidation and/or transfer of its assets and eventual dissolution and it is not clear the position in which its trustees, i.e., its beneficiaries/retirees, will be left. Damages to the Individual Plaintiffs and the other trustees/beneficiaries of the System, as a result of the losses to the System generated by the conduct of the UBS defendants and the resulting liquidation and transfer of the assets of the System, cannot be definitively determined while the liquidation and transfer process is not

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concluded. This requires amending the complaint so that the System's employee/beneficiary class members continue to appear to protect their rights, this time as a class represented by the Individual Plaintiffs.

5. In the instant case, the defendants have already filed a responsive pleading. According to Rule 13.1 of the Rules of Civil Procedure, under these circumstances: "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and **leave shall be freely given when justice so requires**". 32 LPRA App. V, R.13.1 (emphasis added). In the instant case, justice so requires for the protection of Class members who have worked for years only to see their benefits diminished by the losses to the System caused by the conduct of the UBS co-defendants. Leave to amend is therefore warranted.

6. Furthermore, as held in S.L.G. Font Bardon v. Mini Warehouse, 179 DPR 322 (2010), when courts are to determine whether or not to grant leave to amend the pleadings, they must exercise their power liberally. In our jurisdiction, there is a clear judicial policy in favor of entertaining cases on their merits. It is considered an important interest that the litigants have their day in court. In that same case, too, the Supreme Court stated that the mere passage of time does not, ipso facto, preclude the Court from admitting an amendment. Courts must grant leave to amend the complaint liberally, even at late stages of the proceedings. In fact, amendments can be made at stages as late as the "Pre-Trial Conference". In the instant case, there is no reason to deny leave to amend.

7. Moreover, the proposed amendment will not cause undue prejudice to the opposing party and does not radically alter the scope and nature of the case, nor does it render the initial controversy tangential, which also supports the granting of leave to amend.

WHEREFORE, the appearing party very respectfully request this Honorable Court to allow the filing of the Fifth Amended Complaint¹ attached hereto, with any further pronouncements that may be appropriate in law.

WE HEREBY CERTIFY: That a true and exact copy of this motion was sent today to: **PAUL J. LOCKWOOD, ESQ.** - paul.lockwood@skadden.com; **NICOLE A. DISALVO, ESQ.**, Nicole.DiSalvo@skadden.com; and **ELISA M.C.KLEIN** Elisa.Klein@skadden.com;

¹ The Exhibits to the Fifth Amended Complaint are the same exhibits to the Fourth Amended Complaint, which are incorporated by reference to avoid unnecessarily cluttering the Court's docket.

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RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico on this 23rd day of September, 2022.

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S/ GLADYS RODRÍGUEZ-FORNARIS

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RIVERA MORALES; MARÍA DE LOURDES GÓMEZ PÉREZ; HÉCTOR CRUZ VILLANUEVA; LOURDES
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